

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DONNA K. LISH-BROWN,

Plaintiff,

vs.

No. CIV 07-0417 JB/WDS

MICHAEL J. ASTRUE,
Commissioner of Social Security,

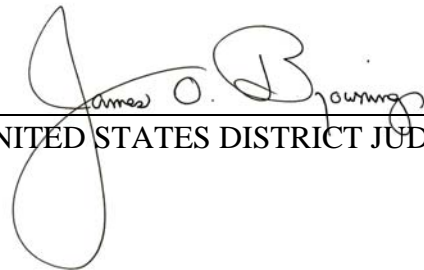
Defendant.

**ORDER AWARDING ATTORNEY'S FEES UNDER
THE EQUAL ACCESS TO JUSTICE ACT**

THIS MATTER comes before the Court on the Plaintiff's Motion for Attorney Fees Under the Equal Access to Justice Act, filed March 2, 2010 (Doc. 28). The Court remanded this Social Security case on January 31, 2010. Because Claimant Donna K. Lish-Brown prevailed, she is entitled to attorney's fees under the Equal Access to Justice Act, 28 U.S.C. § 2412 ("EAJA"). See Manning v. Astrue, 510 F.3d 1246, 1254 (10th Cir. 2007)(holding that the language of the EAJA provides that attorney fees are paid to the prevailing party, rather than the attorney). The Defendant has no objection to the motion or to the application for fees. The application for fees seeks an average amount of fees for a file of the size of the one in this case. The administrative record is large. The number of hours spent and the hourly rates used are reasonable and appear to be reasonably incurred. The Court finds that the motion for attorney's fees should be granted.

IT IS ORDERED that: (i) attorney fees are awarded under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), payable to the Plaintiff in the amount of \$6,997.71; and (ii) if the Plaintiff's

counsel receives attorney's fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, the Plaintiff's counsel shall refund the smaller award to the Plaintiff pursuant to Weakley v. Bowen, 803 F.2d 575, 580 (10th Cir. 1986).



UNITED STATES DISTRICT JUDGE

Counsel:

Michael D. Armstrong
Albuquerque, New Mexico

Attorney for Plaintiff

Gregory J. Fouratt
United States Attorney
Manuel Lucero
Assistant United States Attorney
Albuquerque, New Mexico

-- and --

Virginia Watson Keyes
Office of the General Counsel
Social Security Administration
Dallas, Texas

Attorneys for the Defendant